

HOUSE BILL NO. 276

INTRODUCED BY W. MCNUTT

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DENIAL OF PETITIONS SUBMITTED TO THE BOARD OF ENVIRONMENTAL REVIEW THAT ARE FOUND TO BE SUBSTANTIALLY SIMILAR TO PREVIOUS FAILED LEGISLATION; AND AMENDING SECTION 2-4-315, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-4-315, MCA, is amended to read:

"2-4-315. Petition for adoption, amendment, or repeal of rules. (1) An interested person or, when the legislature is not in session, a member of the legislature on behalf of an interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule. Each agency shall determine and prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within 60 days after submission of a petition, the agency either shall deny the petition in writing or shall initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305. A decision to deny a petition or to initiate rulemaking proceedings must be in writing and based on record evidence. The written decision must include the reasons for the decision. Record evidence must include any evidence submitted by the petitioner on behalf of the petition and by the agency and interested persons in response to the petition. An agency may, but is not required to, conduct a hearing or oral presentation on the petition in order to develop a record and record evidence and to allow the petitioner and interested persons to present their views.

(2) A petition submitted to the board of environmental review must be denied if the director of the department of environmental quality finds that the petition is substantially similar to legislation that failed to become law during the previous legislative session.

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